

State of New Hampshire  
Public Utilities Commission

Docket No. DG 15-362

Liberty Utilities (EnergyNorth Natural Gas) Corp., d/b/a Liberty Utilities

**Petition for Expansion of Franchise to Towns of Pelham and Windham**

Assented-to Motion for Protective Order Related to Discovery Responses

Petitioner Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities, respectfully moves the Commission pursuant to Puc 203.08 for a protective order precluding the disclosure of the certain data responses and confidential attachments provided to Staff during discovery in this matter.

In support of this motion, Liberty represents as follows:

1. During discovery in this docket, Liberty notified the parties pursuant to Puc 203.08 to consider several data responses and attachments to be confidential without then filing a motion.

The rule allows such a claim of confidentiality:

In lieu of immediately filing a motion for confidential treatment, a party providing a document to the commission staff in discovery that the party wishes to remain confidential shall accompany the submission with a written statement that:

(1) The party submitting such documents has a good faith basis for seeking confidential treatment of the documents pursuant to this rule; and

(2) Such party intends to submit a motion for confidential treatment regarding such documents at or before the commencement of the hearing in such proceedings.

Puc 203.08(d).

2. The rule also requires the filing of a motion to ensure the documents remain confidential:

Documents submitted to the commission or staff accompanied by a written statement pursuant to (d) shall be treated as confidential, provided that the party submitting the documents thereafter files a motion for confidential treatment at or prior to the commencement of the hearing in the proceeding.

Puc 203.08(e).

3. Liberty thus files this motion for confidential treatment of the following data responses and attachments: portions of Liberty's response to Staff 1-15 and Confidential Attachment Staff 1-15; the entirety of Confidential Attachments Staff 1-16.1.xlsm, Staff 1-16.2.xlsx, and Staff 1-17.1.xls; portions of Confidential Attachment Staff 1-23 and of Confidential Attachment Staff 1-26; and portions of Liberty's response to Staff 2-10.

4. The rule requires a motion for confidential treatment to contain the following:

(1) The documents, specific portions of documents, or a detailed description of the types of information for which confidentiality is sought;

(2) Specific reference to the statutory or common law support for confidentiality; and

(3) A detailed statement of the harm that would result from disclosure and any other facts relevant to the request for confidential treatment.

Puc 203.08(b) (emphasis added).

5. For each response and attachment subject to this motion, following are the "detailed description[s] of the types of information for which confidentiality is sought," references to the legal basis for confidentiality, and a description of the harm that may result from disclosure:

a. Staff 1-15 asked Liberty to "identify the potential anchor customers and the load requirements of each." Liberty's narrative response identified potential commercial customers, and Confidential Attachment Staff 1-15 listed each potential customer and their projected load. The legal basis for Liberty's claim of confidentiality is to protect the potential customers from an "invasion of [their]

privacy.” RSA 91-A:5, IV. The harm that may flow from disclosure of these documents is the violation of their privacy rights.

b. Staff 1-16 asked for “a list of potential customers that have contacted the Company seeking service and initial construction estimates,” and related details. Liberty provided Confidential Attachments Staff 1-16.1xlsm and 1-16.2xlsx which contain customer names, potential loads, and construction estimates for each. The legal basis and description of harm is the same as in a. above.

c. Staff 1-17 requested an explanation of “the demographic data used to identify clusters of residential neighborhoods for future expansion,” and related details. The Company provided a non-confidential narrative response, but also provided Confidential Attachment Staff 1-17.1xlsx, which contains residential data from the Town of Windham (including names, physical addresses, mailing addresses, date of transfer, book and page information) in a compilation and format that Windham has apparently not previously made publicly available. The legal basis and description of harm is the same as in a. above.

d. Staff 1-23 requested “a detailed explanation and supporting schedules used in calculating the cost of new interconnection,” referring to the Pelham take station. The response, contained in Confidential Attachment Staff 1-23, is an estimate by Tennessee Gas Pipeline, which contains “confidential, commercial, or financial information” that is protected by RSA 91-A:5, IV. Disclosure would cause harm to Tennessee Gas Pipeline’s commercial and competitive interests.

e. Staff 1-26 asked for a “detailed description of the [4.5 mile] expansion to serve Continental Paving” in 2013, to include “a variance analysis of ... ADTH and GPM [gross profit margin] estimates to actuals [and] for each customer along the

line extension . . ., including Continental Paving, please provide the monthly bills and annual GPM.” Confidential Attachment Staff 1-26 listed Continental Paving’s estimated gas use, actual use, and related financial information. The legal basis for confidentiality is both the privacy interests in customer specific nature of the information and the commercially sensitive nature of the quantity of gas used by Continental Paving.

f. Finally, Staff 2-10 asked, “How were the loads determined for those customers” listed in response to Staff 1-15, described above. The confidential portion of the narrative response identified existing commercial customers from other towns whose load was used to estimate that of potential Pelham customers. That is, the load of a particular franchised business that is a Liberty customer elsewhere was used to project the load of the same franchised business that may become a customer in Pelham. The legal basis for confidentiality and likely harm resulting from disclosure is the same as in e. above.

5. Staff and the OCA assent to the relief sought.

WHEREFORE, Liberty respectfully requests that the Commission:

- A. Grant confidential treatment to the data responses and attachments described above;  
and
- B. Grant such other relief as is just and equitable.

Respectfully submitted,

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a  
Liberty Utilities



Date: October 25, 2016

By:

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Certificate of Service

I hereby certify that on October 25, 2016, a copy of this Motion has been forwarded to the service list in this docket.



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Michael J. Sheehan